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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,137	01/16/2004	Yury Kalnitsky	3524/199	7187
29858	7590	04/12/2007	EXAMINER	
THELEN REID BROWN RAYSMAN & STEINER LLP 900 THIRD AVENUE NEW YORK, NY 10022			PATEL, CHIRAG R	
			ART UNIT	PAPER NUMBER
			2141	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	04/12/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/760,137	KALNITSKY, YURY	
	Examiner Chirag R. Patel	Art Unit 2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 20 February 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,2,4-9, 11-20 and 23-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,4-9, 11-20, and 23-30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Response to Arguments***

Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 5-8, 11-13, 17-18, 20, and 27-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Mai et al. – hereinafter Mai (US 2006/0242311).

As per claims 1, 12, 27, and 30, Mai discloses a method for providing streamed electronic content to a plurality of user terminals in a client network from at least one remote electronic content source, the method comprising:

receiving at a client-side computer requests from two or more user terminals in the client network for a common desired streamed content from the at least one remote electronic content store; ([0006])

said client-side computer forwarding at least one content request to the at least one remote electronic content store for the common desired streamed content; ([0059])

receiving by client-side computer from the at least one content source a streamed unicast transmission of the requested content in response to said at least one content request; ([0037])

said client-side computer distributing the received streamed content corresponding to said streamed unicast transmission to each of the requesting plurality of user terminals in the client network. ([0037])

As per claim 2, Mai discloses the method of claim 1 wherein distributing the received streamed content comprises distributing the content to a multicast group including each of the user terminals in the client network which has provided a request for content by subscribing to the multicast group. ([0006])

As per claim 5, Mai discloses the method of claim 1 comprising transmitting additional content from the at least one content source to the client side computer in response to a request by a least one user terminal in the client network for content not currently being transmitted by the at least one content source to the client-side computer. ([0026])

As per claim 6, Mai discloses the method of claim 5 wherein the streamed unicast transmission comprises unicast format content converted from multicast format for transmission to the client-side computer. ([0037])

As per claims 7 and 17, Mai discloses the method of claim 1 wherein the streamed unicast transmission comprises unicast format content converted from multicast format content for transmission to the client-side computer. ([0037])

As per claim 8, Mai discloses the method of claim 1 further comprising the client-side computer processing the received content, wherein said client-side computer processing comprises converting content received in a unicast format into a multicast format suitable for distribution to subscriber of a multicast group. ([0037])

As per claim 11, Mai discloses the method of claim 1 wherein the content is transmitted across the internet. ([0066])

As per claim 13, Mai discloses the method of claim 12 wherein the client-side computer comprises a listening socket for receiving and queuing content requests. ([0006])

As per claim 18, Mai discloses the system of claim 12 wherein the client-side computer comprises a pseudo media player that converts content received in unicast format into a multicast format suitable for distribution to the multicast group. ([0044])

As per claim 20, Mai discloses a method for providing, streamed electronic content to a plurality of user terminals in a client network from a remote electronic content source, the method comprising:

receiving at a client-side computer requests from two or more user terminals in the client network for a common desired streamed content from the electronic content source; ([0006])

said client-side computer forwarding at least one content request to at least one remote electronic content store for the common desired streamed content; ([0059])

forming a multicast group comprising user terminals that have provided requests for the streamed content; ([0006])

receiving by the client-side computer from the at least one content source a streamed unicast transmission of the requested content in response to said at least one content request; ([0037])

said client-side computer distributing the received content corresponding to said streamed unicast transmission to each of the requesting user terminals of the client network in the multicast group. ([0037])

As per claims 28 and 29, Mai discloses the system of claim 27 wherein each of the plurality of terminals in the client network includes a local proxy which includes the software. ([0022])

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mai (US 2006/0242311) in view of McHale et al. – hereinafter McHale (US 6,160,843).

As per claims 4 and 15, Mai discloses the claim of claim 1. Mai fails to disclose terminating the content transmission when client-side server is not distributing content to the plurality of users. McHale discloses terminating the content transmission from the at least one content source to the client-side computer when the client-side computer server is not distributing the content to any of the requesting user terminals. (Col 18 lines 26-36) At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to terminate the content transmission when client-side server is not distributing content to the plurality of users in the disclosure of Mai. The motivation for doing do would have been to guarantee a level of service to a subscriber system. (Col 15 lines 28-45)

As per claim 14, Mai discloses the system of claim 12 wherein the client-side computer includes software causing the client-side computer to form a multicast

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group including each of the user terminals in the client network which has provided a request for content by subscribing to the multicast group. ([0037]) Mai fails to disclose a monitoring program to monitor whether subscribers are requesting the content transmitted by the content source. McHale discloses the client-side computer comprising a monitoring program to monitor whether subscribers are requesting the content transmitted by the content source. (Col 18 lines 26-36) At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to disclose a monitoring program to monitor whether subscribers are requesting the content transmitted by the content source in the disclosure of Mai. The motivation for doing do would have been to guarantee a level of service to a subscriber system. (Col 15 lines 28-45)

As per claim 16, Mai/Mchale et al. disclose the system of claim 14, and Mai discloses wherein the monitoring program includes software that requests transmission of an additional content stream if a subscriber within the multicast group is requesting content not currently being transmitted by the content source. ([0026])

Claims 9 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mai (US 2006/0242311) in view of McCanne et al. – hereinafter McCanne (US 6,901,445)

As per claim 9, Mai discloses the method of claim 1. Mai fails to disclose comprising monitoring streamed content and maintaining an amount of bandwidth for servicing at least one application, other than an application servicing the distributed content, being run by each of the requesting user terminals. McCanne discloses comprising monitoring streamed content and maintaining an amount of bandwidth for servicing at least one application, other than an application servicing the distributed content, being run by each of the requesting user terminals. (Col 4 line 54 – Col 5 line 9) At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to monitor streamed content and maintain an amount of bandwidth in the disclosure of Mai. The motivation for doing so would have been to distribute arbitrary content from a sourcing site to many users in the Internet in an efficient, viable, and cost effective fashion. (Col 1 lines 26-44)

As per claim 23, Mai discloses a method for providing a minimum quality of service in a reduced bandwidth network that provides streamed electronic content to a plurality of user terminals in a client from a remote electronic content source, the method comprising:  
receiving at a client side computer requests from two or more user terminals in a client network for a common desired streamed content from the at least one remote electronic content store; ([0006])

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    said client-side computer forwarding at least one content request to the at least one remote electronic content store for the common desired streamed content; ([0059])

    receiving by the client-side computer from the at least once content source a streamed unicast transmission of the requested content in response to said at least one content request; ([0037])

    said client-side computer distributing the received streamed content corresponding to at said streamed unicast transmission to each of the requesting plurality of user terminals in the client network; and ([0037])

Mai fails to disclose monitoring the client-side computer for potential quality of service problems. McCanne discloses monitoring the client-side computer for potential quality of service problems. (Col 17 lines 43-53) At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to monitor client-side computer for potential quality of service problems in the disclosure of Mai. The motivation for doing do would have been to distribute arbitrary content from a sourcing site to many users in the Internet in an efficient, viable, and cost effective fashion. (Col 1 lines 26-44)

As per claim 24, Mai / McCanne disclose the method of claim 23. Mai fails to disclose wherein the monitoring further comprises accessing the availability of other client-side computer. McCanne discloses wherein the monitoring further comprises accessing the availability of other client-side computer. (Col 17 lines 43-53) At the time the invention was made, it would have been obvious to a person of ordinary skill in the

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art to monitor availability of client-side computer. in the disclosure of Mai. The motivation for doing do would have been to distribute arbitrary content from a sourcing site to many users in the Internet in an efficient, viable, and cost effective fashion. (Col 1 lines 26-44)

As per claim 25, Mai / McCanne disclose the method of claim 24. Mai fails to disclose further comprising replacing an inoperative client-side computer with a computer deemed available in the assessing step to maintain a minimum quality of service level. McCanne discloses further comprising replacing an inoperative client-side computer with a computer deemed available in the assessing step to maintain a minimum quality of service level. (Coll 11 line 59 – Col 12 line 8) At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to maintain a minimum quality of service level in the disclosure of Mai. The motivation for doing do would have been to distribute arbitrary content from a sourcing site to many users in the Internet in an efficient, viable, and cost effective fashion. (Col 1 lines 26-44)

As per claim 26, Mai / McCanne disclose the method of claim 24. Mai fails to disclose further comprising reassigning at least part of a workload of a client-side computer deemed overburdened by fault detection software with a computer deemed available in the assessing step to balance client-side computer workload. McCanne discloses further comprising reassigning at least part of a workload of a client-side computer deemed overburdened by fault detection software with a computer deemed

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available in the assessing step to balance client-side computer workload. (Col 13 lines 20-35) At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to reassign at least part of a workload of a client-side computer deemed overburdened by fault detection software in the disclosure of Mai. The motivation for doing do would have been to distribute arbitrary content from a sourcing site to many users in the Internet in an efficient, viable, and cost effective fashion. (Col 1 lines 26-44)

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mai (US 2006/0242311) / McHale et al. – hereinafter McHale (US 6,160, 843) further in view of McCanne (US 6,901,445)

As per claim 19, please see the discussion under claim 9 as the same rationale applies.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chirag R. Patel whose telephone number is (571)272-7966. The examiner can normally be reached on Monday to Friday from 7:30AM to 4:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).



RUPAL DHARIA  
SUPERVISORY PATENT EXAMINER